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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,315	08/01/2003	Andrew M. Hyde	N9531	3698

7590 05/06/2004
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EXAMINER	
CARTER, MONICA SMITH	
ART UNIT	PAPER NUMBER
3722	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,315

Applicant(s)

HYDE, ANDREW M.

Examiner

Monica S. Carter

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/7/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legrand (EPO 920,893) in view of Colvin, Jr. et al. (5,257,823).

Legrand discloses a pop-up board book comprising at least one page constructed of a first piece of board and a second piece of board attached to the first piece of board (see col. 2, lines 53-56), each piece of board having a front side and a back side; each front side including a coating adapted to accept printing ink (see col. 3, lines 4-7); the first piece of board including pop-up elements (30) and removable forms (32) allowing viewing of a portion of the back side of the first piece of board and a portion of the back side of the second piece of board; wherein the portion of the back side of the first and second pieces of board are adapted to accept printing ink.

Legrand discloses the claimed invention except for the board being a grayback board material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any desired board material for the book, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice.

In re Leshin, 125 USPQ 416.

Legrand discloses the claimed invention except for the pop-up element being a rotatably attached section.

Colvin, Jr. et al. disclose a personalizable paper product comprising doors (12) that are rotatably attached at uncut hinge portions (16) (see figure 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Legrand's by providing the pop-up elements as rotatably attached sections, as taught by Colvin, Jr. et al., to provide an integral portion that displays the indicia printed on back side of the second piece.

Regarding claims 2 and 3, Legrand, as modified by Colvin, Jr. et al., disclose the printed matter being printed in four colors (see col. 3, lines 7-9).

Regarding claim 4, see the above rejections to claim 1.

Regarding claim 5, matters related to the choice of ornamentation producing no mechanical effect or advantage considered to constitute the invention are considered obvious and do not impart patentability. *In re Seid*, 73 USPQ 431.

Regarding claims 6-9, Legrand, as modified by Colvin, Jr. et al., disclose the page as set forth in the above rejections to claims 1-4.

Regarding claims 10-15, Legrand, as modified by Colvin, Jr. et al., disclose the flap board book as set forth in the above rejections to claims 1-4.

Regarding claims 16-21, Legrand, as modified by Colvin, Jr. et al., inherently, disclose the method of creating a page for a lift-the-flap book as set forth in the above rejections to claims 1-4.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose books.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (703) 305-0305. The examiner can normally be reached on Monday-Thursday (7:00 AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 3, 2004

Monica S. Carter
MONICA S. CARTER
PRIMARY EXAMINER